IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

WP(C).No. 5834 of 2006(T)

PETITIONER:

C.BINLA, D/O.N.NARAYANAN,
LOWER PRIMARY SCHOOL ASSISTANT,
KOTTAKUNNU UPPER PRIMARY SCHOOL,
KATTAMPALLY P.O., KANNUR DISTRICT.

BY ADV. SRI.GRASHIOUS KURIAKOSE.

RESPONDENTS:
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1. **STATE OF KERALA, REP. BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE ASSISTANT EDUCATIONAL OFFICER, PAPPINISSERI.**
3. **THE HEADMASTER, KOTTAKKUNNU UPPER PRIMARY SCHOOL, KATTAMPALLY P.O., KANNUR DISTRICT.**

BY GOVERNMENT PLEADER SMT. M.R. SREELATHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.5834/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE MEMO DTD. 01/07/1998 ISSUED BY THE ASST. DIRECTOR, KANNUR UNIVERSITY TO THE PETITIONER.

EXT.P.2: COPY OF THE ORDER DTD. 17/ 06/1999 ISSUED BY THE R.1.

EXT.P.3: COPY OF THE REPRESENTATION DTD. 16/09/2003 FILED BY THE PETITIONER BEFORE THE R.1.

EXT.P.4: COPY OF THE GOVERNMENT ORDER DTD. 27/09/2004 ISSUED BY THE R.1.

EXT.P.5: COPY OF THE CIRCULAR DTD. 03/06/2002 ISSUED BY THE R.1.

EXT.P.6: COPY OF THE ORDER DTD. 30/12/2002 ISSUED BY THE R.1.

EXT.P.7: COPY OF THE JUDGMENT DTD. 27/06/2005 IN W.P.(C). NO. 37455/2004 OF HIGH COURT OF KERALA.

EXT.P.8: COPY OF THE ORDER DTD. 23/01/2006 ISSUED BY THE R.1.

//TRUE COPY//

prv.

K. M. JOSEPH, J.

W.P.C. NO. 5834 OF 2006 T

Dated this the 26th March, 2007

JUDGMENT

Petitioner challenges Exts.P4 and P8. Exts.P4 and P8 are passed by Government. Prayer in the Writ Petition is to quash Exts.P4 and P8 to the extent they relate to the leave period will not count for any service benefits including pension, and to declare that the petitioner is entitled to count the period of leave without allowance from 1.9.1998 to 30.3.1999 granted for B. Ed. Course as duty for all service benefits.

2. Heard the learned Government Pleader also. According to her, as per the decision of this Court in Deepika v. State of Kerala (2007 (1) KLT 71), the period of leave sanctioned for completing B.Ed. Course will count only for the purpose of increment. Government Pleader also points out that the first respondent will consider the question as to whether the petitioner being a primary school teacher, there was any need for the Department to send her for B. Ed. Course and she was not

selected under the Department quota and she went only for her own benefits. Accordingly, Ext.P8 is quashed and the first respondent is directed to consider the matter afresh and take a decision in accordance with law after hearing the petitioner, and taking note of the judgment of this Court in Deepika v. State of Kerala (2007 (1) KLT 71), within a period of two months from the date of receipt of a copy of this Judgment.

K. M. JOSEPH, JUDGE

kbk.